

# EXHIBIT

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UNITED STATES DISTRICT COURT

DISTRICT OF VERMONT

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RICHARD GRAJEDA III

versus

CIVIL ACTION FILE

VAIL RESORTS, INCORPORATED,  
VAIL MANAGEMENT COMPANY and  
OKEMO LIMITED LIABILITY  
COMPANY d/b/a OKEMO MOUNTAIN  
RESORT  
-----

#2:20-cv-165cr

Volume 1 of the Deposition of RICHARD PENNIMAN, held via Zoom video conference, on Tuesday, November 2, 2021, beginning at 1:00 p.m. before Tari J. Gingue, a freelance court reporter and notary public within and for the State of Vermont.

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1 Q Okay. Did you get a written engagement from  
2 them?

3 A No, I don't.

4 Q It's just a telephone kind of engagement?

5 A Yeah. We've been friends for years. There's  
6 no formal agreement.

7 Q Did you have a written job description or  
8 written engagement letter for your job at White Pine?

9 A I believe there was, yeah.

10 Q And am I correct that that was just one season  
11 that you worked there?

12 A I was the Patrol Director for one season, but  
13 prior to that and after that I was involved with patrol  
14 training and worked as a volunteer when I was there.

15 Q Did you own a home there?

16 A I own a half of a duplex log cabin there, yes.

17 Q You still own one?

18 A Yes.

19 Q So you worked one season as the Patrol Director  
20 at White Pine And was that the '07-'08 year? Do I have  
21 that right?

22 A I believe so, yes.

23 Q And why didn't you go back and do it a second  
24 season?

25 A I don't believe I committed to more than one

1           A     Oh. Well, as a volunteer ski patroller I was  
2     probably 19, 18 or 19, so that's a good 60 years.

3           Q     Okay. So what year was that?

4           A     That would have been 1968 or '69.

5           Q     Okay. And then you were actually employed at a  
6     ski resort until was it 1980?

7           A     Well, those first years I was a volunteer with  
8     the National Ski Patrol, the Sierra Club National Ski  
9     Patrol. And then I got a job as professional patroller  
10    at Sugar Bowl in '72, '73. And that was year after year  
11    employment until 1981. And then I was volunteering after  
12    that. And then was involved with the Chilean ski resort  
13    in 77, '78. And '78 -- no, '77 -- excuse me. '77 and  
14    '78. And then again in '07, '08 with White Pine. But  
15    volunteered ski patrolling most of that time that I  
16    wasn't professionally involved.

17          Q     What year did you start your litigation  
18    consulting business?

19          A     I believe that was -- hmm. Well, the first  
20    case that I ever got was in 1979.

21          Q     So did you open Snowbridge Associates in order  
22    to have a business entity to perform that consulting?

23          A     No. The Snowbridge Associates was more for the  
24    avalanche work.

25          Q     Okay. So let's move to Paragraph 9B, if you

1 you see my 9G here?

2 A Yes, I can.

3 Q You cited anecdotal evidence from testimonials  
4 of mountain resort managers. So as a lawyer I've got to  
5 ask you, well, testimonials to me suggests testimony.  
6 Anecdotal suggests chairlift talk. So do you have actual  
7 testimonials of anybody that support your statement on  
8 page 7 of your report?

9 A Well, what I was referring to there was a  
10 previous advertisement brochure by the Gilman Corporation  
11 that quoted several ski resort individuals who gave  
12 Richard Gilman comments about his tower shields and the  
13 evidence that he has from having gotten those comments,  
14 and he put those on his brochure at one time. I may have  
15 a copy of that brochure somewhere, but that's what I was  
16 referring to.

17 Q Okay. So you don't have these testimonials  
18 yourself?

19 A I have one, yeah. I have one. The son of the  
20 owner of White Pine decided one day to test a tower  
21 shield and hit it full-steam thinking it was going to be  
22 soft, which it's not. It hurts. But he was not injured.  
23 He commented to me that he was surprised at how much it  
24 hurt, but that he was able to stand up and walk away. He  
25 hit it at about 30 miles an hour, he says. And I guess I

1 had given him the wrong impression on what it would feel  
2 like if he hit this thing.

3 Q So do you think that my clients should conduct  
4 that kind of testing with humans?

5 A I'm sorry. You kind of broke up there.

6 Q Do you think my clients should conduct that  
7 kind of testing with humans to find out what the  
8 mitigation effects might be of the various mitigation  
9 products they're using?

10 A I wouldn't advise that. I think I would advise  
11 the kind of test that Carley Ward did.

12 Q Okay. You're not suggesting that there is need  
13 to go out and do some human testing to find out what  
14 mitigation impact effects these pads may have?

15 A No, the testing basically has been done in real  
16 life. Racers and other skiers have hit these pads and  
17 walked away.

18 Q Oh, you have evidence of actual cases where  
19 racers and other people have hit these pads and walked  
20 away?

21 A Richard Gilman does.

22 Q Okay. But do you have them?

23 A No. I'm taking his word.

24 Q Okay.

25 A I only have one.

1 A No, I don't.

2 Q Okay. So the lack of information reported to  
3 you about serious injuries that might have occurred in  
4 connection with impact accidents of Gilman products, you  
5 wouldn't consider that a scientific study of any kind,  
6 would you?

7 A I don't think I understand your question.

8 Q All right. You cite to the lack of information  
9 as a basis for your opinion.

10 A Yes.

11 Q But you recognize that's not a particularly  
12 scientific approach to the opinion you're offering?

13 A Well, that's a matter of style, I suppose. I  
14 have put it out there that I'd like to hear about any  
15 accident -- any serious injury resulting from a properly  
16 installed and configured Gilman shield. I've asked the  
17 Gilman Corporation. They've not heard of one. I've  
18 asked you guys, the ASDA. You guys haven't told me of  
19 any. All I can assume at this point is if there are any,  
20 they're few and far between. If there are any at all.

21 Q Within the first half an hour you told me  
22 you've worked on maybe as many as 10 cases where people  
23 hired you as a litigation consultant because they were  
24 hurt when they struck a padded object?

25 A Yes.

1 make snow and then taken off the slope before the slope  
2 opened. If we couldn't get it off the slope before the  
3 slope opened, we would put a catch fence around it, and  
4 we also put catch fence around this little tree.

5 Q So you only had one snow gun at White Pine,  
6 just one?

7 A That's correct.

8 Q So I can hear the morning meetings. "Hey, does  
9 anyone know where the snow gun is?" So you didn't have  
10 to -- you didn't have to figure out a layout and a plan  
11 and a protection plan for the beginner terrain at White  
12 Pine as it related to permanent snow-making  
13 installations?

14 A Correct.

15 Q Have you testified in cases before that said  
16 that it was okay for beginner terrain to have snow-making  
17 stations in the center of the trails as long as it's  
18 protected. Have you said that before?

19 A Yeah, I don't know that I said it's okay. What  
20 I've said before is if there's no alternative and there's  
21 no other option, there's no way to get these things off  
22 the beginner trail, then they have to be adequately  
23 protected.

24 Q That's what you said, that there's no other  
25 way?



1 Q Okay. So is that an and or an or that we  
2 should read into this, Mr. Penniman? Should it be all or  
3 one or more?

4 A Whatever's effective.

5 Q Okay. So if you properly install the Gilman  
6 product on the snow-making equipment in Open Slope and  
7 Lower Mountain Road, you don't need a berm?

8 A I would think that that would be adequate.

9 Q Okay. So you don't have a quarrel really as  
10 you sit here today with Okemo's selection of the Gilman  
11 tower shield products as their preferred method of  
12 mitigation in this case?

13 A No, I don't.

14 Q The selection, in fact, I think you're under  
15 oath several times saying Gilman is the best there is?

16 A Well, it's the best shielding there is. There  
17 are catch fences that would be a little gentler, a little  
18 more flesh-friendly, as I like to call it. You could do  
19 both. You could put a shield, and then a catch fence in  
20 front of it, and the person would be slowed down by the  
21 catch fence, if not caught entirely, and those are  
22 usually a little gentler, a lot gentler than hitting a  
23 tower shield. But as far as causing serious injury, the  
24 shield is very good.

25 Q Okay. And am I right that you said in the past

1 Q But the criss-cross fashion or not wouldn't  
2 matter, because it's your opinion that he went under it?

3 A Correct.

4 Q So if it's criss-cross, it's still somehow  
5 tight enough against that pole to be suspended above the  
6 snow surface?

7 A I don't know that.

8 Q But I thought you had the opinion that Mr.  
9 Grajeda slid under the pad?

10 A It's not my opinion. That's the evidence.

11 Q All right. So is it your opinion that he  
12 struck the pad or that he went under the pad?

13 A The evidence is he went under the pad.

14 Q Okay. All of the evidence?

15 A All of the -- no, not all of the evidence.  
16 I think Kennedy said he couldn't actually see the  
17 collision, but that the pad fell down. And then Chelsea  
18 Manley speculated a whole bunch of stuff, so those two at  
19 least were saying that he hit the -- one didn't know and  
20 the other was just speculating.

21 Q So let me ask you this, Mr. Penniman. Are you  
22 aware of any sworn testimony of any witness who saw Rick  
23 Grajeda slide under the pad?

24 A No. There's no witness that said he slid  
25 under.

1 Grajeda was traveling faster than that group of kids that  
2 he was trying to pass?

3 A No.

4 Q Well, didn't he say he was trying to pass them?

5 A No.

6 Q What did he say?

7 A He was going around them.

8 Q He didn't say they were still moving?

9 A He said they were moving.

10 Q So if they're moving and he's going around  
11 them, isn't that by definition him going faster than  
12 them?

13 A No.

14 Q Does he have the responsibility under the  
15 Skier's Responsibility Code to avoid those below him?

16 A Yes.

17 Q And do you believe that falling while trying to  
18 avoid others is an inherent risk of the sport?

19 A That would depend on the circumstance.

20 Q Do you believe that falling as a result of ice  
21 is an inherent risk of the sport?

22 A That depends on the circumstance.

23 Q Do you believe that Rick Grajeda's fall was the  
24 result of an inherent risk of the sport?

25 A No.

1 or be affected.

2 Q Right. So in other words, if Rick Grajeda  
3 wrapped himself around this thing, and his mid torso  
4 struck the TS2 unit, that would not necessarily prevent  
5 his feet and his head from going either side of it?

6 A That seems like a reasonable assumption.

7 Q All right. And are you aware of any studies  
8 that have been conducted that would support any level of  
9 opinion that a person who slides mid torso, back first  
10 into one of these TS2 units would suffer zero injury to  
11 his spine?

12 A I have no direct evidence of that.

13 Q And just to be fair to the record, Mr.  
14 Penniman, that's not really your area anyway, am I right?

15 A I don't quite understand your question.

16 Q You're not any kind of a medical human factors  
17 engineer that would be able to testify in that area?

18 A I am not a certified human factors engineer.

19 Q And you've never held yourself out as one  
20 either?

21 A No, that's correct, I have not.

22 Q You have suggested in testimony that you've got  
23 some study in human factors from a course you took at  
24 Northwestern. Actually you audited the course?

25 A That, and just the experience I have with

1 skiing accidents over the course of my years, seeing lots  
2 and lots of these accidents happen and studying them so.

3 Q All right.

4 A I don't have a degree, but I have a pretty good  
5 idea what causes serious injuries.

6 Q Right, but you're not here presenting yourself  
7 as an expert to say, "hey, you know what, I am qualified  
8 to say what the impact forces were on Mr. Grajeda at the  
9 point where he was injured"?

10 A That's correct.

11 Q And "I'm not here to say that if this Gilman  
12 product was properly installed, the impact forces would  
13 be "x" amount less than that." Not here to say that  
14 either?

15 A That's correct.

16 Q And you're not here to say that "if those  
17 impact forces were that much less, he would have suffered  
18 zero injury." You're not here to say that?

19 A That's correct.

20 Q Okay. I'm going to read you another quote.  
21 This product, quote, "is designed to flex, bend and limit  
22 impact forces. That does not mean that a skier  
23 completely out of control isn't going to injure himself."  
24 Do you agree with that?

25 A Yeah.

1 that involves traveling at speed and the possibility of  
2 loss of control, the possibility of contact with others  
3 and objects, if you're going to choose to do that  
4 activity, you'll never eliminate the risk?

5 A No, you won't.

6 Q Okay. So even using the safety hierarchy we're  
7 not trying to eliminate risk, we're trying to lessen.  
8 Fair?

9 A Yeah, we're trying to limit the risk to a  
10 reasonable extent.

11 Q Okay. Would you agree with me that using a  
12 safety hierarchy and using good ski resort safety  
13 principles, you would try to mitigate hazards, but you  
14 wouldn't do that at the expense of altering the nature of  
15 the sport?

16 A That depends on the circumstance.

17 Q Well, have you ever heard that before?

18 A I've heard that inherent risks are those which,  
19 if removed, would alter the very nature of whatever  
20 activity you're talking about, yes.

21 Q Right. So let's talk about trees, for  
22 instance. Trees on the sides of trails. You could  
23 always cut down the tree the day before your client  
24 strikes it and eliminate that risk, right?

25 A You could.

1 MR. SMILEY: Same objection.

2 A I have no way of knowing how much he consumed  
3 or how it affects him, so I have no opinion on that  
4 whatsoever.

5 Q Does it surprise you that a beginner skier was  
6 going to decide to get high the morning that he was going  
7 to go skiing for the first time in several years?

8 MR. SMILEY: Objection. Over objection, you  
9 can answer.

10 A No, doesn't surprise me.

11 Q I'm trying to find something that's only a few  
12 minutes. I think we already covered this, but I guess  
13 I'll ask and then it'll be a good time to suspend. But I  
14 think we've already covered this. You're not the witness  
15 who's going to testify that if Mr. Grajeda struck an  
16 appropriately installed and positioned TS2 unit that he  
17 would not have suffered any injury?

18 A I would testify that he -- it's highly likely  
19 that he would not have sustained any serious injury.

20 Q How are you going to do that? How are you  
21 going to provide that opinion without telling me what  
22 speed he was, what the impact mitigation forces are on  
23 the pad, if it's properly installed, and what those  
24 forces would have been reduced to?

25 A Based on what I've read in terms of his

1 behavior that day, and given the history that I have of  
2 the Gilman shields, that high probability of no serious  
3 injury is the result.

4 Q So you wouldn't say zero injury. You just say  
5 no serious injury?

6 A Correct.

7 Q Even though you're not really qualified to tell  
8 us what the forces were to his spine as applied by  
9 whatever it was that he hit?

10 MR. SMILEY: Objection. Asked and answered.  
11 Over objection, you can answer.

12 A Well, as you've pointed out, the body position  
13 when he hits anything can cause minor injuries. You  
14 might have a finger bent back or bump his head and have  
15 a headache, whatever. But he's not going to suffer any  
16 serious injury. At least historically that is the  
17 evidence that I have.

18 Q And am I correct that there's a limitation in  
19 your training here and expertise with respect to what  
20 forces you would say were mitigated by the use of the  
21 tower shield?

22 MR. SMILEY: Objection.

23 Q That's beyond your expertise?

24 MR. SMILEY: Objection. Again, asked and  
25 answered. He's not being disclosed as a



1 biomechanical engineer. There's nothing about  
2 forces in his report. Over objection, you can  
3 answer again.

4 A Yeah, I've answered that question. I'm not  
5 here to answer as a biomechanical engineer.

6 Q Okay. Have you worked on cases where skiers  
7 suffered spinal injury merely by the way their body  
8 landed or was positioned on the snow during a fall?

9 A No, I can't recall any that I've investigated.

10 Q Have you ever heard of a scorpion-style fall?

11 A No.

12 Q Can you envision that in your head, where  
13 someone falls, they're on their stomach, and their feet  
14 come up behind them?

15 A I sure can.

16 Q And you have not worked on a case where there  
17 was a scorpion style fall where someone suffered a spinal  
18 cord injury merely as a result of the way they impacted  
19 with the snow?

20 A Not that I can recall, no.

21 Q Do you agree with all of Mr. Grajeda's  
22 companions that each of these snow-making stations were  
23 clearly visible from a distance?

24 A Yes. The -- the elements of it were not. The  
25 fact that they existed there, there was something there

C E R T I F I C A T E

STATE OF VERMONT,       )  
CALEDONIA COUNTY, SS. )

I, Tari J. Gingue, a Notary Public, within and for the State of Vermont, do hereby certify that I took the deposition of RICHARD PENNIMAN, a witness appearing via Zoom video conference, on Tuesday, November 2, 2021.

I further certify that said witness was sworn to testify the truth, the whole truth, and nothing but the truth, and that the foregoing testimony was taken by me stenographically and thereafter reduced to typewriting, and the foregoing 204 pages are a full, true and correct transcription of the testimony of said witness, to the best of my ability.

I further certify that I am not related to any of the parties thereto or their Counsel, and that I am in no way interested in the outcome of said cause.

Dated at St. Johnsbury, Vermont, this 7th day of November, 2021.

---

Tari J. Gingue, Notary Public  
License #157.0008935

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UNITED STATES DISTRICT COURT  
DISTRICT OF VERMONT

-----  
RICHARD GRAJEDA, III,

Plaintiff,

v.

CIVIL ACTION FILE  
#2:20-cv-165cr

VAIL RESORTS, INCORPORATED, VAIL  
MANAGEMENT COMPANY and OKEMO  
LIMITED LIABILITY COMPANY d/b/a  
OKEMO MOUNTAIN RESORT,

Defendants.  
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VOLUME TWO  
of the continued  
D E P O S I T I O N

-of-

RICHARD PENNIMAN

held on Tuesday, November 9, 2021, via Zoom  
teleconferencing platform, commencing at 1:00 p.m.

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and Licensed Court Reporter in NH - #130  
Vermont Notary Public License #157.0004436

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1           ago?

2       A.    Yeah.  Yeah, I think so, as far as I can  
3           remember.  If something jogs my memory, I'll  
4           cut in, but that's, that's the last one I  
5           remember.

6       Q.    All right.  We talked a little bit about the  
7           term "engineer" and you mentioned the Society  
8           of Safety Engineers that have qualified you as  
9           an engineer, do you remember that?

10      A.    When they were the American Association of  
11           Safety Engineers they had a qualifying process  
12           that I participated in and I was accepted.  
13           They've now changed their name to the American  
14           Society of Safety Professionals.

15      Q.    Gotcha.  So they took the "engineer" out?

16      A.    Looks like it.

17      Q.    Has any other organization ever qualified you  
18           or accepted you as an engineer of any kind  
19           that you're aware of?

20      A.    Not that I can think of at the moment, no.

21      Q.    Okay.  And you are not a biomechanical  
22           engineer?

23      A.    That is correct.

24      Q.    And you're not qualified to testify with any  
25           scientific certainty as to what specific

1 injuries may be mitigated by padding?

2 ATTORNEY SMILEY: Objection.

3 A. I'm not sure what you mean by scientific  
4 certainty. I mean, if you look at the body of  
5 evidence of a history of a device or system,  
6 carefully and, ah, completely, I would say  
7 that's a fairly scientific approach.

8 Q. So you are qualified to testify to a degree of  
9 scientific certainty as to what specific  
10 injuries may be mitigated by padding?

11 A. Ah, depends on the padding. Depends on a lot  
12 of things.

13 With respect to the Gilman system, I  
14 think I can testify with a high degree of  
15 certainty, whether you want to call it  
16 scientific certainty or not depends on your  
17 definition of that. I would say that I've  
18 done a lot of research on it and have kept  
19 track of it year to year, day-to-day, looking  
20 for any weaknesses in the system and I haven't  
21 found any.

22 I've done scientific tests on those  
23 systems, participated in scientific tests.  
24 I've -- yeah. I would say with scientific  
25 certainty that the Gilman shield system will

1 mitigate injuries to an acceptable degree of G  
2 forces for the human body. I participated in,  
3 in that very study. So, yeah, I think so.

4 Q. What G forces are acceptable?

5 A. I don't recall off the top. I'd have to look  
6 at the study again.

7 Q. So is that the Carlie Ward study?

8 A. Yes, it is.

9 Q. So why don't we put that -- it's a two-page  
10 document that we've been shown that came from  
11 your file. Why don't we mark that as Exhibit  
12 23.

13 (Exhibit No. 23 marked for  
14 identification.)

15 ATTORNEY SMILEY: Was there a 22  
16 Exhibit, Tom? Robyn?

17 ATTORNEY AICHER: There will be.

18 ATTORNEY SMILEY: Okay.

19 Q. (BY ATTORNEY AICHER) Do you recognize what  
20 we're showing you as Exhibit 23?

21 A. Yes, I do.

22 Q. And it's a two-page document. I'll just  
23 toggle to the second page.

24 A. Okay.

25 Q. So you've had a chance to look at Exhibit 23

1 with us just briefly?

2 A. I didn't review it but, ah, if you could  
3 expand it a little bit so I can see it better,  
4 I'd appreciate that.

5 Q. Have you had a chance to look at it just to  
6 identify whether this is the study that you  
7 were mentioning?

8 A. Yes. Yes.

9 Q. And do you have anymore pages in your file of  
10 the Carlie Ward study other than these two?

11 A. Yeah. It's about an inch thick of just graphs  
12 and stuff. This is the summary of all of  
13 that.

14 Q. All right. So -- and when you say "this,"  
15 this Exhibit 23 is the summary of all of that  
16 data?

17 A. Yes. I haven't looked at it critically for  
18 quite a while but, yeah.

19 Q. So tell me what we're looking at on page 1 of  
20 Exhibit 23. What is this chart saying?

21 A. Ah, well, you've got the various -- in  
22 configuration, you've got various pads and  
23 shields.

24 Q. Okay.

25 A. And then across the top you've got impact

1 speed. The test was at 16 miles per hour.

2 And then I'm not sure what the X-G-Y-G-Z-G-R-G  
3 is, but the comments on the right show what  
4 the reduction was of the various systems.

5 Q. So did Dr. Ward do this test at different  
6 MPHs?

7 A. No. I think they were all at 16 miles an  
8 hour.

9 Q. So what are the G forces that would apply to  
10 the impactor that is being run at 16 miles an  
11 hour in her tests.

12 A. Well, it's a reduction in the G forces.

13 Q. But, in order to get a reduction, don't you  
14 have to have a number to start with?

15 A. Yeah. I would have to go back and review this  
16 study to give you meaningful answers on this.  
17 I just didn't review this before the  
18 deposition, so you have to give me some time  
19 to do that.

20 Q. Let's look at the second page. I'm looking at  
21 the column that she hand wrote on the right  
22 here, and I'm not seeing anywhere that she  
23 identified that any of these shields would  
24 reduce the impact forces 100 percent?

25 A. Oh, none of them do, of course. You can't do



1 that. Ha-ha-ha.

2 Q. All right. So they're percentages of the  
3 forces that would apply at the miles per hour  
4 that she calculated?

5 A. Right.

6 Q. Okay. So she calculated the impact forces  
7 based on 15.7 or 16 miles an hour each time?

8 A. Yes.

9 Q. All right. Which one of these devices on  
10 these two pages is the Gilman TS-2 device?

11 A. I'm not sure which one it is. I think it's  
12 the tower wrap.

13 Q. So which, which page is that on?

14 A. It's on the page we're looking at.

15 Q. So the fourth one down?

16 A. Three-inch diameter pole with tower wrap, I  
17 believe, is the one that is the Gilman  
18 cylinder.

19 Q. All right. Do you have records that reflect  
20 that somewhere?

21 A. Yeah. It's in the big study. I'd have to go  
22 back and look at that and see exactly which  
23 one it is.

24 Q. Okay. What -- what did she use for an  
25 impactor?

1 A. Ah, she used a test dummy on -- it's the upper  
2 torso of a test dummy with impact sensors on  
3 it. And we drove -- it was mounted on the  
4 side of a truck. The, ah, device was set up  
5 on the track and the truck was driven at 16  
6 miles an hour so that the test dummy torso  
7 would impact the item being tested.

8 Q. Do you know if she was measuring peak force or  
9 average force?

10 A. No. I'm not sure, without going back and  
11 really looking at the study, what she was  
12 averaging. There were several impact sensors  
13 on the test dummy and it was probably an  
14 average of the sensors in terms of impact  
15 force, but I'm not sure about that.

16 Q. Do you know what the duration of the force was  
17 that she was measuring?

18 A. Instantaneous.

19 Q. Do you know what the accuracy was and how she  
20 calculated accuracy?

21 A. That would have to be in the body of the study  
22 which I'd have to review.

23 Q. Are you sure it's in there or is it something  
24 we'd have to ask her?

25 A. You might have to ask her. I don't know. I

1           haven't looked at the study in a long time.

2           Q.    And do you feel confident that you could have  
3               done -- you could have designed and conducted  
4               the same test yourself?

5           A.    Yes.

6           Q.    You think you're qualified to have done that?

7           A.    Yes.

8           Q.    Do you know what the -- what the measuring  
9               units -- how they were calibrated?

10          A.    I don't know what device she was using to  
11               calibrate all of that.

12          Q.    Do you feel like you're qualified to conduct  
13               the calibration of impact -- impactor  
14               measuring devices?

15          A.    I would have to read the instructions, but  
16               they're pretty simple. Yeah.

17          Q.    Okay. Do you know whether any of Dr. Ward's  
18               impact testing involved a crash test dummy  
19               that sustained a sideways impact?

20          A.    No. These were all blunt force to the chest.  
21               This was done for a specific accident in which  
22               that was the case, ah, and so that was the  
23               test.

24          Q.    All right. So you don't -- you don't know of  
25               any studies that would reflect any type of

1 C E R T I F I C A T E  
2 UNITED STATES DISTRICT COURT - DISTRICT OF VERMONT  
3 DEPOSITION OF: RICHARD PENNIMAN  
4 RE: RICHARD GRAJEDA, III v. VAIL RESORTS, ET AL.  
5 CIVIL ACTION FILE #2:20-cv-165cr  
6

7 I, LINDA C. O'BRIEN, a Registered Professional  
8 Reporter and Notary Public in and for the State of  
9 Vermont, do hereby certify as follows:

10 1. That RICHARD PENNIMAN, the witness whose  
11 testimony is hereinbefore set forth, was duly  
12 recorded by me on Tuesday, November 9, 2021;

13 2. That such testimony was transcribed by me  
14 and is a true and accurate record of the testimony  
15 given by the said witness, to the best of my  
16 knowledge, skill and ability;

17 3. I further certify that I'm neither  
18 attorney for, nor related to or employed by any of  
19 the parties, nor financially interested in this  
20 matter; and

21 4. That a dash as used through this  
22 transcript is meant to represent an interruption in  
23 thought or between a question and answer.

24 IN WITNESS THEREOF, I hereunto set my hand and  
25 Notarial seal this 30th day of November, 2021.

17

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19 \_\_\_\_\_  
20 Linda C. O'Brien, RPR  
21 Registered Professional Reporter  
22 and Notary Public  
23 Commission #157.0004436  
24 My Commission Expires: 1-31-2023  
25 Commissioner of Deeds - NH  
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